

**CLINTON COUNTY COURT OF
COMMON PLEAS
DOMESTIC RELATIONS RULES**

IN THE MATTER OF: :

Domestic Relations : **ENTRY**
Rules of Practice and Procedures
Clinton County Common Pleas Court :

The following rules are adopted effective March 1, 2011, to govern the practice and procedure of this Court's domestic relations cases, subject to such rules as may be adopted or promulgated by the Supreme Court of Ohio.

These rules shall be recorded by the Clerk of Courts of Clinton County and journalized therein, and shall be filed with the Ohio Supreme Court.

All previous rules are hereby rescinded.

ENTERED this ____ day of _____, 2011.

Mary H. McElwee
Chief Magistrate
Clinton County Common Pleas Court

Honorable John W. Rudduck
Judge
Clinton County Common Pleas Court

Helen L. Rowlands
Magistrate
Clinton County Common Pleas Court

ACKNOWLEDGEMENT

The Court gratefully acknowledges the assistance of the Clinton County Bar Association Committee (as listed below):

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Cindy Bailey, Clerk of Courts

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**LOCAL RULES
CLINTON COUNTY COURT OF COMMON PLEAS
DOMESTIC RELATIONS**

**PART ONE
PLEADINGS AND GENERAL PROVISIONS**

**1.01 COMPLIANCE WITH THE OHIO RULES OF CIVIL PROCEDURE,
STATUTORY REQUIREMENTS AND LOCAL RULES.**

- A. All pleadings shall comply in form and content with Title III of the Ohio Rules of Civil Procedure, requirements of the Ohio Revised Code, and Local Rules, Clinton County Common Pleas, Domestic Relations Rules (hereinafter referred to as “Local Rules” or “LR”).
- B. All initial and final pleadings shall contain the names, addresses, and dates of birth of both parties in the case caption. Initial filings and final decrees and/or entries shall contain the names and dates of birth of all minor children of the parties. Pleadings shall also contain the telephone number of any party who is not represented by counsel. All pleadings shall contain the signature, name, address and telephone number of the attorney preparing the pleading, along with the attorney’s registration number issued by the Supreme Court of Ohio.
- C. Social Security numbers (SSNs) shall not be included on any document that will be filed with the Clerk. SSNs must still be provided on IV-D Applications (required in cases with child and/or spousal support). These documents must be submitted to the Administrative Assistant for the Domestic Relations Magistrate at the appropriate time (with initial pleadings for IV-D Applications). The Court will then transmit these documents to the CSEA. **DO NOT FILE THE IV-D APPLICATION WITH THE CLERK OF COURTS.** As to account numbers on the financial affidavit (Form 1.0), you may use the last four digits only in order to distinguish various accounts, but you need not give the entire account number. (Example: ABC Bank Visa, Account No. xxxx-xxxx-2670.)
- D. Throughout these rules the designation of Plaintiff, Defendant, Petitioner or Respondent shall mean the party and his/her attorney, if represented, or the party if unrepresented.
- E. Failure to comply with the Local Rules is not a basis for extension of any time requirements mandated by Local Rule, State Law, or Rules of Procedure.

1.02 STYLE OF PLEADINGS.

- A. All pleadings and forms required by the Court shall be typewritten or printed LEGIBLY in INK.
- B. All filings with the Clerk of Courts must contain a top margin of at least one (1) inch.
- C. The Court requires an original plus one copy of all filings, plus a sufficient number of copies for service. Exception for Decrees: The Court requires an original and three copies of each Decree. If an attorney or party wants file-stamped copies of any filing or pleading, he/she must provide additional copies as well as an envelope with postage for mailing.
- D. The Court strongly encourages pleadings to refer to the parties as Husband/Wife or Mother/Father instead of Plaintiff/Defendant.

1.03 COMPLIANCE REVIEW.

- A. Attorney Filings and Pro Se Filings (Filings by Persons Unrepresented by Counsel).

All pleadings shall be filed with the Clerk of Courts. Upon filing, the Clerk shall present all filings to the Office of the Administrative Assistant for the Domestic Relations Magistrate (hereinafter DR Assistant's Office or Compliance Officer) for review to insure that all required documents are present and completed. The purpose of compliance review by the DR Assistant/Compliance Officer is to assist counsel and the public by assuring the quality of documents processed by the Court and to increase the efficiency of the Court's operation.

After review of the pleadings by the DR Assistant/Compliance Officer, notice will be provided to counsel and/or pro se parties indicating whether the filing is in compliance with all requirements of Local Rules, State Law and Ohio Rules of Civil Procedure. Filings in compliance will be set for hearing.

- B. Filings Found to be Non-Compliant.

Counsel and/or pro se parties will receive notice of any filing which is found to be non-compliant. No action will be taken by the Court on this matter until all non-compliant filings have been amended, filed with the Clerk of Courts, and found to be in full compliance. Further, if the filing fails to conform to the requirements of Local Rules, State Law or the Ohio Rules of Civil Procedure or fails to pass compliance standards within forty-five (45) days from the initial filing, the Court shall dismiss the filing on its own motion.

1.04 ATTORNEY REQUIREMENTS.

Attorneys who practice in the DR Court must be admitted to the practice of law and registered with the Ohio Supreme Court. An attorney may be required to present his or her registration card to a Judge or Magistrate.

1.05 ATTENDANCE POLICY.

Parties have a right to attend any conference or hearing. If a party wishes to attend a conference that is scheduled to be held in chambers, that party shall communicate that fact to his or her attorney and the conference will be held in a courtroom. All conferences or hearings with a pro se party shall be held in the courtroom.

Failure to Appear:

When one party fails to appear at a scheduled hearing or conference, any of the following MAY occur:

1. When the moving party/plaintiff fails to appear at a pretrial or hearing, the Court may dismiss the case or grant other appropriate relief to the responding party/defendant.
2. When the respondent/defendant fails to appear at a pretrial or hearing, the Court may order that the case proceed ex parte.
3. When a party fails to appear pursuant to subpoena or a court order, the Court may issue a capias.

NO CHILDREN SHALL BE BROUGHT TO ANY COURT HEARING WITHOUT PRIOR APPROVAL OF THE COURT.

1.06 PROPER COURTROOM ATTIRE AND COURTROOM BEHAVIOR.

Proper attire is required while present in Court. Any activity or attire deemed to be disruptive to the decorum of the Court is strictly prohibited. Any Court employee may exclude anyone not properly attired.

Parties and counsel are expected to act appropriately during all court proceedings, in the courtroom as well as outside the courtroom. Neither the parties nor counsel shall engage in yelling, screaming, name calling or any other offensive behavior. Any such conduct may result in immediate sanctions and may also result in the hearing being discontinued and rescheduled on the Court's docket.

1.07 DOCUMENTS REQUIRED FOR DIVORCE, DISSOLUTION, LEGAL SEPARATION AND MOTIONS.

See Documents Required for Filings (Attached as Appendix 1 to these Local Rules).

1.08 ELECTRONIC TRANSMISSION FILING (FAX FILINGS).

A. Filings Not Accepted.

The following documents may NOT be filed by facsimile transmission:

1. Any filing commencing an action (e.g., a complaint, a third party complaint, a post-decree motion, a motion for injunctive relief) for which the Clerk of Courts must collect an initial case deposit against costs or a specific filing fee and/or for which the Clerk of Courts is required to effectuate service or summons; or
2. Precipe for subpoena.

B. Risk.

The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Courts through whatever technological means available.

C. Original Fax Filing/Source Document.

A document filed by fax shall be accepted as the effective original document. The person making a fax filing need not file any source document with the Clerk of Courts but must, however, maintain in his or her records and have available for production on request by the Court the source document filed by fax, with original signatures as otherwise required under the applicable rules, together with the facsimile cover sheet used for the subject filing.

The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.

D. Cover Page.

1. The person filing a document by fax shall also include a cover page containing the following information (See Appendix 2 for form):
 - a. The name of the Court;

- b. The title of the case;
 - c. The case number;
 - d. The assigned Judge or Magistrate;
 - e. The title of the document being filed (e.g. Defendant Jones' Answer to Amended Complaint; Plaintiff Smith's Response to Defendant's Motion to Dismiss; Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendant's Motion to Dismiss);
 - f. The date of transmission;
 - g. The transmitting fax number;
 - h. An indication of the number of pages included in the transmission, excluding the cover page (**not to exceed 20 pages**);
 - i. The name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available.
2. If a document is sent by fax to the Clerk of Courts without the cover page information listed above, the Clerk of Courts shall:

Deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document **shall not** be considered filed with the Clerk of Courts.

E. Time of Filing.

1. Subject to the provisions of this rule, all documents sent by fax and accepted by the Clerk of Courts shall be considered filed with the Clerk of Courts as of the date and time the Clerk of Courts time-stamps the document received. The office of the Clerk of Courts will be deemed open to receive facsimile transmission of documents on the same days and at the time the Clerk is regularly open for business. If a fax transmission is shown as being started before 4:00 p.m. closing time, it shall be filed as of 4:00 p.m.
2. The Clerk of Courts may, but need not, acknowledge receipt of a facsimile transmission.

F. Length of Document.

Facsimile filings shall not exceed twenty (20) pages in length excluding the cover page.

All facsimile filings shall comply with Local Rule 8 (Civil Rules as amended July 1, 2005).

1.09 PROCESS SERVERS.

A. One-Time Appointment.

If a party desires personal service to be made by a special process server pursuant to Civil Rule 4.1, the party or counsel must submit a motion and proposed entry appointing a special process server. The following must be stated in the motion and entry:

1. The name of the person to be appointed as process server;
2. That the person to be appointed as process server is eighteen (18) years of age or older; and
3. That the person to be appointed as process server is not a party to the action.

B. Continuing Appointment.

A person may apply to be designated as a “Standing Special Process Server” for cases filed in this Court by filing an application supported by affidavit setting forth the following information:

1. The name, address and telephone number of the applicant;
2. That the applicant is eighteen (18) years of age or older;
3. That the applicant agrees not to attempt service of process in any case in which the applicant is a party; and
4. That the applicant agrees to follow the requirements of Civil Rules 4 through 6, and any applicable Local Rules and special instructions for service of process as ordered by the Court in individual cases.

The applicant requesting designation shall also submit an entry captioned “In Re: The Appointment of (name of applicant) as Standing Special Process Server” and stating “applicant has complied with the provisions of Local Rule 1.09; (name of applicant) is hereby designated as a Standing Special Process Server authorized to

make service of process in all cases filed in this Court, to serve until further order of the Court.” The Clerk shall record such appointment on the Court’s general docket, and shall retain the original applications and entries. In any case thereafter, the Clerk of Courts shall accept a copy of the time-stamped appointing entry as satisfying the requirements of Civil Rule 4.1 for designation by the Court of a person to make service of process.

1.10 COURT COSTS.

A. Initial Filings.

The Clerk of Courts shall not accept a domestic relations action for filing unless it is accompanied by either a filing fee as established by the Court or a court order waiving the filing fee based upon motion and affidavit of an indigent party.

Upon said motion, the Court may waive all or a part of the filing fee required with filing in cases of indigency or partial indigency. The Court reserves the right to assess court costs at any time during pendency of the action.

If the Court learns that a party who filed an affidavit of indigency is able to pay the costs, the Court may order that party to pay the court costs within a reasonable period of time.

Security for costs must be posted to cover witness fees, plus mileage, for all witnesses to be subpoenaed.

B. Final Entries.

All final entries must contain an order as to the party responsible for paying any outstanding court costs and that such costs shall be paid within thirty (30) days of the mailing of a cost statement by the Clerk of Courts. In the event a final entry is filed with the Court that fails to provide for the payment of court costs, all court costs shall be paid by the Plaintiff or moving party within thirty (30) days of the mailing of a cost statement by the Clerk of Courts.

1.11 SERVICE OF PROCESS BY PUBLICATION.

In all cases when service of process is to be accomplished by publication, it shall be the responsibility of the party to insure that the publication is accomplished, including the selection of the means of publication and administration of the publication.

Upon completion of the last publication of service, the publisher shall file with the Court an affidavit showing the fact of publication, together with a copy of the notice of publication. The affidavit and its exhibits shall constitute proof of service.

1.12 SERVICE OF PROCESS BY POSTING AND MAIL.

In compliance with Civil Rule 4.4(A)(2), service of process may be perfected by a combination of posting and mailing. Upon the filing of the affidavits required by Civil Rule 4.4(A), the Clerk of Courts shall make service by posting the proper notice as follows: The front door of the Clinton County Courthouse; the Child Support Enforcement Agency located on S. South Street (Wilmington); and the Clinton County Administration Building located on Sugartree Street (Wilmington). The notices shall be posted for six consecutive weeks. Mailings of the complaint and summons required in Civil Rule 4.4(A)(2) must also be completed. Service is complete when the Clerk notes on the docket where and when notice was posted.

1.13 FAILURE TO COMPLY WITH PART ONE OF THESE LOCAL RULES.

If any person fails to properly file a form required by Part One of these Local Rules, the Court may continue the matter in progress and entertain a motion for attorney fees occasioned by the delay or impose other appropriate sanctions.

1.14 NOTICE OF SUBPOENA ISSUANCE.

Notice of issuance of subpoenas shall be given to all other parties in accordance with Civ. R. 45(A)(3).

1.15 DISCOVERY.

Discovery requests and responses, other than as specifically required by the Civil Rules, shall not be filed with the Court. You may file a notice of service of discovery requests or responses.

PART TWO

TEMPORARY ORDERS – DIVORCE/LEGAL SEPARATION PROCEEDINGS

2.01 EXISTING ORDERS.

At the time of filing, if there are any orders from another court that may affect the issuance of temporary orders in this Court, the orders should be referenced and a copy attached (Example: Juvenile, Probate, Domestic Violence Orders, etc.).

2.02 JUVENILE COURT JURISDICTION.

When Juvenile Court has jurisdiction over all of the children of a marriage, the Complaint or Petition shall contain a statement to that effect. When Juvenile Court has jurisdiction of some, but not all, of the children of a marriage, the pleadings shall

identify the name and date of birth of the child or children who are subject to Juvenile Court jurisdiction.

2.03 EX PARTE TEMPORARY RESIDENTIAL PARENT STATUS.

At the commencement of an action for divorce, annulment, or legal separation, either party may file a Civil Rule 75(N) motion with a supporting affidavit requesting temporary orders for residential parent status, child support and parenting time. (See Court's suggested forms attached as Appendix 3).

A. When both parties remain in the same home:

If both parties are living in the marital residence, the Plaintiff shall file with the Complaint an ex parte order which provides that the parents will share the rights and responsibilities regarding their children in accordance with the established practices of the household. The order shall further provide that, pending further order of the Court, each parent shall be a residential parent of the child(ren).

B. When the parties are separated:

If the parties live in separate households and have established a parenting plan that has successfully allocated parental rights, a party may submit that plan to the Court for approval as a temporary order. Otherwise, if the parties live in separate households, the Plaintiff shall file with the Complaint a motion and proposed ex parte order granting temporary residential parent status as follows:

1. To the person who had actual, physical custody of the child(ren) for at least ten (10) days preceding the filing of the Complaint; or
2. If the parties shared actual physical custody of the child(ren) preceding the filing of the Complaint, to the person who was the primary caretaker of the children prior to the filing of the Complaint; or
3. If the parties equally shared caretaking responsibilities, request the matter be set before the Court for immediate hearing.

C. When the parties separate after the filing of ex parte orders:

Ex parte orders shall only be issued at the time of, or prior to service of, the initial filings. If circumstances change after the filing of the ex parte orders and service has been perfected, the parties must seek a new order by motion and hearing or by the filing of an agreed entry.

2.04 EX PARTE TEMPORARY PARENTING TIME ORDERS.

If the parties are living in separate households, the Plaintiff shall file with the Complaint a motion and proposed ex parte order granting parenting time to the non-residential parent at a minimum in accordance with the Court's Standard Parenting Schedule (attached as Appendix 5 to these Local Rules).

If the residential parent wishes to restrict or deny parenting time, a separate motion with supporting affidavit must be filed and an order must be obtained from the Judge or Magistrate assigned to the case. If parenting time is denied or restricted by an ex parte order, notice of the restriction and notice of an emergency hearing shall be served upon the restrained parent.

2.05 EX PARTE TEMPORARY CHILD SUPPORT ORDER.

A. When both parties remain in the same home:

If both parties remain in the marital residence, the Plaintiff shall file with the Complaint a proposed ex parte order which provides that each parent shall continue to provide support for the minor children in accordance with the established practices of the household. A child support worksheet is still required to be filed.

B. When the parties are separated:

1. If the parties live in separate households and one party has been designated the temporary residential parent of the children, the Plaintiff shall file with the Complaint a motion and proposed ex parte order which requires the non-residential parent to pay temporary child support.
2. The amount of the temporary child support order shall be calculated pursuant to O.R.C. 3119 and a child support worksheet shall be attached to each temporary order.
3. Temporary child support orders shall be effective on the date stated or, if none, on the date the order is filed. Temporary child support shall be payable through the Child Support Enforcement Agency (CSEA) unless a separate motion is filed requesting the support to be paid directly to the obligee and an Order to that effect is granted. If paid through the CSEA, all required statutory language must be included in the order. (See Child Support Notifications attached as Appendix 4 to these Local Rules). Deviation from the basic child support schedule will not be granted by the Court on an ex parte temporary order UNLESS agreed by the parties.

C. When the parties separate after the filing of ex parte orders:

Ex parte orders shall only be issued at the time of, or prior to service of, the initial filings. If circumstances change after the filing of the ex parte orders and service has been perfected, the parties must seek a new order by motion and hearing or by the filing of an agreed entry.

D. Determination of income for calculation of child support:

If the non-residential parent's income is unknown, the filing attorney shall obtain that information from an employer or other source by filing a subpoena duces tecum to obtain said information and shall note on the computation worksheet that a subpoena has been issued and that income has been estimated or imputed until that information is received.

2.06 EX PARTE TEMPORARY ORDER FOR PAYMENT OF DEBTS.

At the time of filing of the Complaint, the Plaintiff may file a motion and request an ex parte hearing concerning the payment of marital debts and obligations during the pendency of the case. Any order granted at an ex parte hearing on payment of said debts and obligations shall be reviewable at pretrial.

2.07 TEMPORARY SPOUSAL SUPPORT.

Temporary spousal support shall be awarded only upon motion and hearing. A motion for temporary spousal support shall be accompanied by Form 1.1 (Affidavit of Income and Expenses). The responding party shall file Form 1.1 before or at the hearing. Temporary spousal support motions may be given an expedited hearing date.

All Affidavits shall be signed and notarized.

2.08 EXCLUSIVE USE OF THE MARITAL RESIDENCE.

A. Orders to Vacate.

Motions for an order requiring a spouse to move from the established home of the parties shall not be granted without a hearing after notice to the opposing party, unless there is demonstrated to the Judge/Magistrate that there is urgent need for an immediate order to protect the physical well being of the movant or minor children of the movant. An ex parte order to remove will be granted only upon testimony of the person seeking an order of removal.

B. Orders Not to Return to Residence.

An ex parte temporary restraining order can be obtained, preventing a party from returning to the marital residence or removing personal property from the marital residence, if such party has been absent for more than thirty (30) continuous days immediately preceding the filing of the motion. Absence from the residence means that the party is no longer residing at the residence.

The motion seeking an ex parte temporary restraining order preventing a party from returning to the residence must be accompanied by an affidavit setting forth the approximate date on which the absent party left the residence, the number of days (months) of continuous absence immediately preceding the filing of the motion and any reason for the absence that is known to the movant. Any motion to dissolve an ex parte temporary restraining order granted pursuant to this Local Rule shall be heard within fourteen (14) days of the date the motion to dissolve is filed.

2.09 MUTUAL RESTRAINING ORDER.

In all divorce cases and at the time of the filing of the Complaint, the Court shall issue an order restraining both parties from:

- A. Threatening, abusing, annoying or interfering with the other party or the parties' child(ren);
- B. Incurring debt in the name of the other party or in the parties' joint names;
- C. Selling, disposing, damaging or allowing a lien/loan to be placed against either or both parties' real or personal property (including money);
- D. Changing or failing to renew the present health, life, home, automobile, or other insurance coverage or making any change regarding a retirement plan including changing any beneficiary designation (without notice and hearing or written agreement of the parties);
- E. Relocating the parties' minor child(ren) from Clinton County or their present address; and
- F. Claiming the children as dependants on any income tax return.

The above restraining order shall not prevent the payment of ordinary and necessary business and living expenses.

These restraints shall be imposed by the Court's standard Mutual Restraining Order (attached to Appendix 6) which shall be served upon the Plaintiff upon filing the Complaint and shall be served upon Defendant along with summons.

Any other requests for restraining orders shall be awarded on a case-by-case basis and only upon motion, supporting affidavit and proposed entry.

2.10 RELIEF FROM EX PARTE ORDERS.

Any person who believes that an ex parte order filed in accordance with these rules is incorrect or inappropriate may file a motion for relief. The filing party shall obtain a hearing date from the Assignment Commissioner. All motions shall contain a notice of the date and time of hearing and shall be served in accordance with the Ohio Rules of Civil Procedure.

Motions for relief from ex parte temporary orders shall be given priority on the Court's docket. In the event an ex parte order is found to be incorrect or inappropriate, any modification may be made retroactive to the effective date of the ex parte order.

PART THREE CASE MANAGEMENT AND PROCEDURE

3.01 MAGISTRATES.

A. Pursuant to Civil Rule 53, the Court may refer matters to a Magistrate.

B. Ex Parte Communications.

No attorney shall discuss the merits, either orally or in writing, of any case with any Judge or Magistrate presiding over the matter until final disposition thereof without the presence of opposing counsel or the opposing party, if not represented.

3.02 SCHEDULING OF NON-CONTESTED CASES.

A. Dissolutions.

In all dissolutions, the Attorney(s) or, if unrepresented, the Petitioners, shall contact the Assignment Commissioner to schedule the final hearing. NOTE: In dissolution actions with children, no final hearing shall proceed unless both parties have attended the mandatory parenting educational seminar.

B. Non-Contested Divorces and Actions for Legal Separation.

In all non-contested divorces and actions for legal separation, if a timely Answer is not filed by the Defendant (within 42 days from service), the first pretrial date set out in notice served with the Complaint shall become the final hearing date. If less than 42 days from service have lapsed at the first pretrial, Attorney for Plaintiff (or Plaintiff if unrepresented) shall contact the Assignment Commissioner or request the Court (at pretrial) to schedule a final hearing.

3.03 SCHEDULING OF CONTESTED DIVORCES AND LEGAL SEPARATIONS.

A. Pretrial Conferences.

1. The first pretrial hearing shall be set at the time the Complaint is filed. The date shall be at least 60 days after the filing of the Complaint. Said hearing shall be inserted in the proper notice and served with the summons.
2. If a scheduling order is necessary and unable to be established at the first pretrial (as determined by the Judge or Magistrate assigned to the case), the Court may set the case for further pretrial for the purpose of establishing a scheduling order. The purpose of the pretrial to establish a scheduling order is to: (1) Identify the issues in controversy; (2) Establish a timetable for discovery; and (3) Set appropriate pretrial conference dates (if warranted) or set trial dates.

At the conclusion of the pretrial, a scheduling order may be issued. The Court may conduct a scheduling conference in conjunction with any hearing on a temporary motion in order to expedite the case.

3. At any pretrial hearing, the Court may also determine whether there are disputed issues regarding the allocation of parental rights and responsibilities. If parenting issues are disputed, the parties may be referred to mediation in accordance with these Local Rules. If mediation is ordered, the matter will be set for further pretrial after mediation.
4. At any pretrial hearing, the Court may require the parties to file pretrial statements by a designated date.

B. Discovery at Pretrial Conferences.

1. A discovery cutoff date shall be set at pretrial. Parties (if unrepresented) and counsel shall exchange all discovery as required in Appendix 8 attached to these rules prior to said cutoff date.

2. If so ordered by the Court, each party shall file a pretrial statement on or before the designated date. The pretrial statement shall contain all of the following information:
 - a. A list of all property believed to be the separate property of each spouse;
 - b. A list of all property believed to be marital in nature, the value of that property, the valuation date used in determining the value, the NADA trade-in value of any vehicles (if available), and an account of all debts owing upon each item of property;
 - c. A list of all debts of the marriage;
 - d. A statement of the contested issues of fact and law;
 - e. A list of all witnesses;
 - f. A list of all exhibits; and
 - g. A statement as to whether shared parenting is being requested.

If a pretrial statement is not filed as ordered and in accordance with this rule, the Court may continue the pretrial in progress and entertain a motion for attorney fees against the non-complying party.

3. Unless excused by the Court or by agreement of counsel, trial counsel and clients must attend the pretrial. Failure to abide by this rule may result in a second pretrial with opposing counsel's attorney fees paid by the non-complying attorney (in the Court's discretion).

C. Scheduling of Final Hearings.

No scheduled final hearing can go forward until all discovery issues are resolved. Further, if the matter is a divorce or legal separation with minor children involved, failure of a non-residential parent to attend the educational seminar may result in a suspension of parenting time until that parent attends the seminar and petitions the Court for parenting time.

D. Emergency Hearings.

If a substantial emergency exists which requires prompt court intervention, counsel may request an emergency hearing. A motion for an emergency hearing, accompanied by an affidavit setting out the nature of the emergency and the relief sought, shall be presented to the Administrative Assistant for the DR Magistrate. The Judge or Magistrate hearing the case will approve or reject the request for an

emergency hearing. If approved, the Assignment Commissioner will set the motion for the first available hearing date, at least seven (7) days after service. All motions must be served in accordance with the Civil Rules.

NOTE: There is a mandatory duty to report child abuse to the Department of Human Services. Also, the Juvenile Court has statutory authority to issue ex parte emergency custody orders.

NOTE: NO CHILDREN SHALL BE BROUGHT TO ANY COURT HEARING WITHOUT PRIOR APPROVAL OF THE COURT.

3.04 MOTION PRACTICE.

SEE ALSO APPENDIX 1 (DOCUMENTS REQUIRED FOR FILINGS).

A. Scheduling of Hearing.

1. The first hearing on any motion shall be a pretrial UNLESS the *Court* designates otherwise on the hearing notice.
2. All motions shall contain a notice with sufficient space for the Assignment Commissioner to insert the date, time and place of the hearing.
3. Any responsive motion shall be filed at least seven (7) days prior to the scheduled hearing. Parties must be present at all hearings unless excused by the Court.
4. Any motion for a change of allocation of parental rights and responsibilities or significant modification of a shared parenting plan may be referred to mediation by the Court at pretrial.

COUNSEL SHALL NOT INSERT THE HEARING DATE IN ANY MOTION UNLESS THE DATE WAS OBTAINED BY THE ASSIGNMENT COMMISSIONER FOR THE **MOTION BEING SET**. (Example: If the matter is pending and a new motion is filed, Counsel shall not simply insert the next scheduled hearing date in the motion as a hearing date unless the Assignment Commissioner has been contacted AND approved the same).

B. Content of Motions.

1. All pleadings shall be in conformity with 1.01 (B) of these Local Rules.
2. All motions to modify prior orders of the Court shall contain a statement of the order sought to be modified, the date of such order, the nature of the modification sought, and the specific change in circumstances which justifies

modification. If the motion fails to be specific, the Court may dismiss the motion.

3. An entry of appearance should be filed by counsel, if new to the case, to insure that court mailings are sent to the appropriate counsel and address.
4. Exhibits that will be used at trial shall be submitted at trial and not attached to any pleadings filed with the Court without special permission from the Judge or Magistrate hearing the case.
5. Tax returns, credit card statements, phone bills, medical bills and similar personal financial information shall not be attached to any motions filed with the Court without special permission from the Judge or Magistrate hearing the case.

C. Motions Regarding Health Care Expenses.

Any motion seeking reimbursement for health care expenses shall contain a statement that the movant has previously forwarded the medical bills and a calculation of the amount due to the respondent and that timely payment has not been made.

All motions must contain a chronological list of all bills for which payment is requested, the name and address of each health care provider, the date of service, the nature of the service provided and the name and date of birth of the person who received the services. Further, the motion must state all amounts that have been paid by insurance companies, the balances remaining, and the amount sought to be reimbursed.

Absent unusual circumstances, or court order to the contrary, a request for reimbursement of health care expenses should be made within thirty (30) days of the date when payment is made or due. Reimbursement should be made within thirty (30) days of the request.

D. Motions for Contempt – Show Cause Motions.

1. All motions requesting a contempt finding shall contain a statement of the court order alleged to have been violated, the date of the court order, and the facts constituting the violation. If payment of money is involved, the amounts owed shall be stated in the motion.
2. At the hearing on a motion for contempt of a support order, a CSEA payment history (i.e. a computer printout from the CSEA) must be presented by the moving party. An audit may be submitted, if available, but is not required.

3. Upon a finding of contempt, the Court may award a standard attorney fee of up to \$500.00. If a higher award is sought, the attorney must request fees as part of the motion and comply with Local Rule 3.07 (Attorney fees).
4. Whenever a motion for contempt is filed, the caption must so indicate so that the Clerk of Courts may issue a summons.

E. Settlement of Contested Matters.

Whenever the parties or counsel inform the Assignment Commissioner that an agreement has been reached on an issue previously in controversy, they must submit written proof of the agreement (by fax, mail or hand delivery) in order to avoid appearing at the hearing. If no written agreement is submitted, counsel must appear with the parties to read the agreement into the record. If the submitted written agreement is not in a form suitable for filing or if an agreement is read into the record, the attorneys must thereafter submit an agreed entry in accordance with Local Rule 6.02.

F. Burden and Hearing.

1. In any action where there must be a showing of a change of circumstances, the movant must establish a prima facie case regarding such change at a hearing scheduled for that purpose or the motion will be denied.
2. If any pending motion is unable to be resolved by second pretrial, the matter will be promptly set for an evidentiary hearing before the Judge or Magistrate on the issue of a change of circumstance or final resolution of all pending issues. Further pretrial on the matter may be set at the discretion of the Judge or Magistrate hearing the case.
3. If a hearing cannot be concluded in the amount of time allotted, the Court may grant a continuance in progress at its discretion.

G. Agreed Motions.

All modifications of a court order (including changes in the allocation of parental rights and responsibilities) shall be initiated by the filing of a motion, even when the parties agree to the modification.

Any agreed modification where one party is represented by counsel shall be set for hearing and notice provided to give unrepresented party opportunity to be heard.

The Court may, in its discretion, refuse to approve agreements which are not in the best interest of the child(ren).

H. Failure to Comply.

The Court may dismiss any motion that does not comply with the requirements of these Local Rules.

NOTE: NO CHILDREN SHALL BE BROUGHT TO ANY COURT HEARING WITHOUT PRIOR APPROVAL OF THE COURT.

3.05 POST DECREE EX PARTE ORDERS FORBIDDEN.

The use of ex parte orders to modify a prior allocation of parental rights and responsibilities is not appropriate. Any perceived need to transfer legal custody on an emergency basis because of an alleged abuse, neglect or dependency is more appropriately addressed by the Juvenile Division of the Common Pleas Court in the county where the child resides.

This does not apply to actions where ex parte orders are statutorily permitted such as civil protection orders for domestic violence or stalking/sexually oriented offenses.

3.06 EXHIBITS.

A. Exhibits for Trial.

Before a hearing begins, each party shall provide the Court with the following:

1. An index of exhibits; and
2. An original and three sets of photocopies of all exhibits, premarked, with the Plaintiff identifying exhibits by number and the Defendant identifying exhibits by letter.

B. Retention/Destruction of Exhibits.

Exhibits shall be held and shall be subject to destruction in accordance with Rule 26 of the Rules of Superintendence for the Courts of Ohio. Parties desiring return of exhibits should make application to the Court following completion of the case and all applicable appeal time periods.

3.07 ATTORNEY FEES.

As an alternative to retaining an expert to testify at the final hearing on the issue of reasonableness and necessity of legal services, the party requesting fees may submit an affidavit to opposing counsel setting forth qualifications of the requesting party's attorney, the hourly rate of the attorney, and an itemized statement of the services

rendered, with an estimate of the remaining preparation time and time required for attendance to the final hearing. The affidavit must be submitted to opposing counsel at least two (2) days before the final hearing.

The affidavit should be offered as an exhibit at the final hearing. The responding party may then indicate at the final hearing whether he or she will stipulate to the reasonableness and necessity of the requesting party's attorney fees. If there is no such stipulation, the Court, upon request, will schedule a follow-up hearing at which time the issue of attorney fees will be litigated and the requesting party may present expert testimony on the issue of reasonableness and necessity of fees, including those fees incurred in preparing for and attending the follow-up hearing.

3.08 SUPPLEMENTAL PLEADINGS.

Any person who files pleadings after a case has been heard (including but not limited to: written arguments, briefs and requests for findings of fact and conclusions of law) shall contact the DR Magistrate's Assistant and notify him/her of the filing.

3.09 CONTINUANCES.

A. Policy.

No case in which a date has been set for a hearing shall be continued without the written authorization of the assigned Judge or Magistrate. Requests for continuances shall be granted only in compliance with Rule 41 of the Rules of Superintendence for the Courts of Ohio.

B. Contents of Motion.

Requests for continuances must be made by written motion AND accompanied by a proposed order. The motion must contain:

1. The filing date of the original motion;
2. The subject matter of the motion;
3. The scheduled hearing date;
4. Reason for the continuance;
5. Copy of conflicting trial assignment notice attached, if appropriate; and
6. Statement as to whether or not opposing counsel/party agrees to the continuance.

C. Contents of Order.

The proposed Order shall include a blank for the new hearing date; or, in the alternative, a hearing date may be obtained by telephone from the Assignment Commissioner and inserted into the Order before submission to the Court (provided that the Order reflects that the date was, in fact, obtained from the Assignment Commissioner).

D. Opposed Continuance.

If opposing counsel/party does not agree to a continuance, the Judge or Magistrate hearing the case shall, in his/her discretion, rule upon the request for continuance.

3.10 BANKRUPTCY.

If a bankruptcy action is filed by either or both parties, that party or parties shall file a Notice of Filing of Bankruptcy in the domestic relations case. Said notice shall include the location of the Court in which it was filed and the Bankruptcy Code Chapter under which the filing was made.

3.11 WITHDRAWAL OF COUNSEL.

A. Filing Requirements.

An attorney seeking to withdraw as counsel in a pending case shall present a filed motion and proposed entry to the assigned Judge or Magistrate. The motion shall contain the following:

1. Date and time of any scheduled hearings;
2. Reasons for withdrawal;
3. Statement that the client must promptly obtain new counsel unless new counsel is already in the case; and
4. Statement that no continuances of pending hearings will be granted solely for the reason of change of counsel.

If the client has agreed to the withdrawal and signed the entry, the Court may consider the motion forthwith. If the client has not signed the entry, the motion shall also state that the Court may sign the entry unless the client requests a hearing within seven (7) days after the motion is served. In order to request a hearing, the client shall contact the Assignment Commissioner. The certificate of service on the motion must include the withdrawing counsel's client as well as the opposing counsel or party.

B. Time Limitations.

In the absence of extraordinary circumstances, the Court will not grant an attorney permission to withdraw less than thirty (30) days prior to a scheduled final hearing. Attorneys may not withdraw prior to completion of any assigned entries.

C. Substitution of Counsel.

As an alternative to the foregoing procedure, counsel may file a Notice of Substitution of Counsel.

3.12 TIMELY DISPOSITION OF CASES.

This Court shall strive to comply with all Ohio Supreme Court guidelines regarding the timely disposition of cases.

**PART FOUR
PARENTING PROVISIONS**

4.01 APPEARANCE AND SUPERVISION OF CHILDREN IN COURT.

NO CHILDREN SHALL BE BROUGHT TO ANY COURT HEARING WITHOUT PRIOR APPROVAL OF THE COURT.

In the event that children must be brought to Court (Court has granted approval or children are not children involved in the pending case), adequate supervision must be provided for them. The Court cannot be responsible for the care of children during their parents' hearing.

4.02 SEMINAR FOR SEPARATING PARENTS.

All parents in divorce, legal separation or dissolution actions in which there are any minor children under sixteen years of age shall register for an educational seminar for separating parents sponsored by the Court (or a like educational seminar approved by the Court) within thirty (30) days before or after the filing of the action or service of process.

An order requiring attendance by both parties shall be filed with the Complaint for Divorce, Annulment or Legal Separation. This order shall be served upon the Defendant, together with the Complaint. In cases of Dissolution, each Petitioner shall sign and file an order to attend the educational seminar.

Each parent shall be responsible for registering at least one week prior to the seminar to be attended unless said registration is not required by the official coordinating said seminar. Each person shall be responsible to pay the fee associated with this seminar.

No action may proceed to final hearing until the custodial parent has attended the seminar. No dissolution may proceed to final hearing unless both parties have attended the seminar. However, non-compliance by a parent who enters no appearance and does not contest the action shall not delay the final hearing.

Seminar attendance or other parenting education or counseling program may also be required by order of the Court in connection with all actions involving minor children, including post-decree motions.

The requirement for attendance of the parenting educational seminar may be waived by the Court for good cause shown.

Failure of a non-residential parent to attend the educational seminar by the final hearing date may result in a suspension of parenting time until that parent attends the seminar and petitions the Court for parenting time.

4.03 STANDARD ORDER OF PARENTING.

The Court of Common Pleas has adopted a Standard Parenting Schedule which is attached hereto as Appendix 5.

4.04 INTERVIEW OF CHILDREN BY THE COURT.

All interviews of children will be scheduled at the discretion of the Court and conducted in accordance with Ohio Revised Code 3109.04(B)(2). The interviews will be recorded and shall remain confidential.

4.05 APPOINTMENT OF GUARDIAN AD LITEM (GAL).

A. Appointment.

In any case in which the allocation of parental rights and responsibilities is to be determined, the Court, in its discretion, may, and upon motion of either party, shall, appoint a Guardian Ad Litem (GAL) for the child(ren). The Guardian Ad Litem shall be selected from the list of approved Guardians Ad Litem maintained by the Court. The GAL shall serve until the Court enters a final order in the case.

B. Scope.

The Guardian Ad Litem shall perform any functions necessary to protect the best interests of the child(ren), including those duties set forth in the Order Appointing Guardian Ad Litem (GAL Form 1).

C. Procedure.

A party requesting appointment of a GAL must file a motion, set the matter for hearing and serve the other party pursuant to the Ohio Rules of Civil Procedure (unless an oral motion is made during a pretrial hearing). The Court may also appoint a GAL sue sponte. In either case, if the Court appoints a GAL, the Court shall file GAL Form 1.

D. Fees.

1. If the Court appoints a GAL sue sponte or as a result of a party's motion, the entry appointing the GAL may order a party or the parties to deposit funds with the Clerk of Courts. The Court shall have discretion concerning the amount of the initial deposit.

The appointment of the GAL does not take effect, nor does it bind the proposed GAL to any duty or legal obligation, until the full deposit is paid to the Clerk of Courts.

2. In the event the GAL determines that the work required will exceed the amount of \$1,200.00, the GAL shall seek court approval, with notice to counsel and/or unrepresented parties, before incurring any fees that exceed said amount.
3. Upon completion of the GAL's duties, the GAL shall submit an affidavit of fees to the Court for approval and a proposed Order directing the Clerk to release the approved amount and ordering payment of any amounts due over the deposit.

E. Qualifications.

Guardians Ad Litem shall be approved by the Court upon request. GALs must comply with all state-mandated training requirements (see Ohio Rules of Superintendence 48). All prospective GALs must submit an application (see GAL Form 2), submit to a background check (civil and criminal) and annually provide proof of compliance with Rule 48.

F. Reports.

Guardian Ad Litem reports shall be submitted to the Domestic Relations Assistant's Office (**not filed with the Clerk of Courts**) at least fourteen (14) days prior to trial. The GAL report shall be accepted into evidence as the GAL's direct testimony, and he or she may be subject to cross examination by either party. If either party intends to call the GAL as a witness, such party shall subpoena the GAL at least seven (7) days prior to trial. Unless subpoenaed, the GAL need not appear at trial. The party issuing a subpoena to the GAL is responsible for paying the fee for the GAL's appearance, unless otherwise ordered by the Court. If both parties issue a subpoena, the parties shall divide the GAL's appearance fee.

Written reports shall be provided to parties and/or counsel by the Court at the GAL report hearing or at least fourteen (14) days prior to trial.

G. Comments or Complaints.

Any comments or complaints regarding the performance of a Guardian Ad Litem appointed pursuant to this rule shall be in writing and shall be directed to the Administrative Assistant for the DR Magistrate.

A copy of comments or complaints submitted to the Court shall be provided to the Guardian Ad Litem who is the subject of the complaint or comment. The Administrative Assistant for the DR Magistrate may forward any comments or complaints to the DR Magistrate or General Division Judge for consideration and appropriate action. The Administrative Assistant for the DR Magistrate shall maintain a written record in the Guardian Ad Litem's file regarding the nature and disposition of any comment or complaint and shall notify the person making the comment or complaint and the subject Guardian Ad Litem of the disposition.

Motions to remove a Guardian Ad Litem shall be scheduled for hearing before the DR Magistrate assigned to adjudicate the allocation of parental rights and responsibilities.

H. Annual Certification.

The Court shall annually conduct a review of its GAL list to determine that all individuals are in compliance with the training and education requirements of Superintendence Rule 48, that they have performed satisfactorily on all assigned cases during the preceding calendar year and are otherwise qualified to serve.

All individuals on the Guardian Ad Litem list shall certify annually that they are unaware of any circumstances that would disqualify them from serving, and shall report in writing the training they have attended to comply with Superintendence Rule 48 (see GAL Form 3).

4.06 PSYCHOLOGICAL OR PSYCHIATRIC EXAMINATIONS.

A. Appointment.

The Court may appoint a psychologist or psychiatrist to conduct an evaluation on the issues of custody and/or parenting time in order to assist the Court in allocating parental rights. The Court will allocate the costs of the evaluation between the parties in its discretion. The psychologist or psychiatrist will be the Court's witness.

B. Report.

The psychologist or psychiatrist will provide the Court with the original written report and recommendations (including case name and number and date of hearing) no less than seven (7) days prior to the hearing unless otherwise ordered, with copies mailed to counsel for each party, or to a party if unrepresented. The report shall be accepted into evidence as the psychologist's or psychiatrist's direct testimony, and he or she may be subject to cross examination by either party. A party desiring to cross examine shall arrange for the psychologist's or psychiatrist's appearance at the hearing and is responsible for paying the fee for that appearance.

4.07 RELOCATION.

Both parents shall give written notice to the other parent at least 30 days prior to any intent to change address or phone number unless a restrictive order has been obtained from the Court (notice must be sent certified mail with return receipt or hand delivered by one party to the other). A copy of the notice shall be provided to the Clerk of Courts, Clinton County Court of Common Pleas, Clinton County Courthouse, Wilmington, Ohio 45177.

Neither parent may relocate the children out of Clinton County (or the County where the children presently reside) without first obtaining a modified parenting time order. The parties may submit an agreed order modifying parenting time, with a provision for allocation of transportation expenses, to the Court for adoption by the Court as an order. If the parents are unable to agree, the moving parent shall PRIOR TO RELOCATION:

1. File a motion asking the Court to modify the parenting time schedule;
2. Set a hearing; and
3. Obtain a modified parenting time order.

Continuances of the hearing will be at the discretion of the Court and will not be granted absent good cause due to the need to conduct these hearings in an expedited manner.

4.08 TRANSFER OF JUVENILE COURT SUPPORT CASES TO GENERAL DIVISION COMMON PLEAS COURT.

If at the time of the filing of a Complaint for Divorce or Petition for Dissolution there is a Clinton County Juvenile Court child support order for the benefit of one or more of the parties' children, and if the order should be consolidated in General Division Common Pleas Court, motions must be filed in both Courts.

The Juvenile Court motion should request transfer of the case to the General Division Common Pleas Court. The transfer can be accomplished by an agreed entry or a court order following a hearing, if the matter is contested.

The General Division Common Pleas Court motion should request the Court to accept transfer. The transfer into General Division Common Pleas Court can be accomplished by an agreed entry or a court order following hearing, if the matter is contested.

**PART FIVE
DISPUTE RESOLUTION**

5.01 CONCILIATION.

A motion for conciliation must be filed in accordance with Ohio Revised Code 3105.091. (Note: O.R.C. 3117 does not apply to this Court.)

5.02 MEDIATION.

A. Mediation Order.

At any time after service of summons in any action for divorce, legal separation or annulment, or at any time after the filing of a post-decree motion, the Court may order both parties into mediation in accordance with O.R.C. 3109.052. Mediation may be provided by a court-employed mediator. All private mediators must be approved by the Court as set forth below.

B. Scope.

The Court may order mediation of parenting issues pursuant to O.R.C. 3109.052. By agreement of the parties, the court-employed mediator may mediate any other pending issues.

C. Criteria.

1. In considering whether to order a case to mediation or whether to continue with mediation once it is ordered, the Court and/or mediator will consider relevant factors, including the following:
 - a. Whether either party has been convicted of or pled guilty to a violation of O.R.C. 2919.25, or whether either party has committed an act resulting in a child being adjudicated to have been abused; in either case, mediation will be ordered only if the Court determines that it is in the best interests of the parties for mediation to proceed and supports that determination with specific written findings of fact;
 - b. Whether one party is genuinely in fear of the other where domestic violence is alleged, regardless of whether there is a conviction;
 - c. Whether one or both parties are alleged to have a significant drug and/or alcohol dependency;
 - d. Whether one of the parties is mentally ill or has significant psychological problems that might interfere with mediation; and
 - e. Whether the physical distance between the parties is so great that it is not feasible for them to maintain a consistent mediation schedule.
2. Mediation will not be used:
 - a. As an alternative to the prosecution or adjudication of domestic violence;
 - b. In determining whether to grant, modify or terminate a protection order;
 - c. In determining the terms and conditions of a protection order; and
 - d. In determining the penalty for violation of a protection order.

However, nothing in this rule shall prohibit the use of mediation in a subsequent divorce or custody case, even though that case may result in the termination of the provisions of a protection order.

3. When violence and/or fear of violence is alleged, suspected or present, mediation may only occur if the mediator has specialized training as set forth in the Ohio Rules of Superintendence 16(C)(2) and all of the conditions contained in Ohio Rule of Superintendence 16(B)(2) are met.

D. Procedure.

1. When the Court orders mediation, a mediation order shall be filed. Both parties shall complete a mediation intake form. The mediation intake form will include information to facilitate screening for domestic violence.
2. If a court-employed mediator is to be used, the mediation coordinator shall schedule the first mediation session. If a private mediator is to be used, the parties or, if represented, the attorneys, shall advise the mediation coordinator within seven (7) days of the identity of the private mediator.
3. An order to mediate will not stay the implementation of any temporary orders issued by this Court nor any scheduling order/discovery matter or hearing.
4. At the conclusion of mediation, the mediator shall submit a mediation report to the Court (which shall not be filed in the Court's case file) and provide copies to the parties and their attorneys if represented. A mediation report shall indicate whether agreement has been reached on any of the issues that were the subject of the mediation.
5. Any written agreements shall be forwarded to counsel and a copy given to the parties. Mediation agreements shall not be filed with the Court.
6. Any agreement reached during mediation shall not be binding upon the parties until approved by the parties' attorneys, if any, and by the Court, which shall consider the best interests of the children when allocating parental rights and responsibilities and/or establishing a parenting schedule.
7. Pursuant to Ohio Rule of Superintendence 16, parties are permitted to have their attorneys and other individuals they designate accompany them and participate in mediation. Attorney attendance, or attendance by anyone other than the parties, **although not expected or encouraged**, will be allowed in court-sponsored mediation only if approved by the Court with sufficient advance notice given so that opposing counsel may be notified and given an opportunity to attend.
8. Children shall not be brought to the mediation session.
9. Where appropriate, the mediator will provide appropriate referrals to legal counsel and other support services for all parties.

E. Cost of Mediation.

Court-connected mediation is provided at no cost to the parties. The Court shall apportion the cost of private mediation after considering the parties' respective incomes. The Court shall retain the right to reconsider the cost allocation upon request by either party and for good cause shown. The Court, in its discretion, can order a party to reimburse the Court for court-connected mediation if a party fails to appear for the mediation without good cause or notice to the mediator.

F. Confidentiality.

Statements made during the course of mediation assessment or the mediation sessions are privileged and shall not be admissible as evidence in any subsequent proceeding in this Court except as required by law. O.R.C. 2317.02 and 2710.01 et seq. This rule does not require the exclusion of any evidence which is otherwise discoverable merely because it is presented in the course of mediation.

G. Testimony.

The mediator cannot be called as a witness to testify in any hearing related to divorce, dissolution, legal separation or the allocation of parental rights and responsibilities. However, the privilege does not extend to criminal cases, delinquency, child abuse, child neglect or dependent child actions. The privilege belongs to the mediator and cannot be waived even by the consent of both parties.

PART SIX

DECREES – ENTRIES – MAGISTRATE’S DECISIONS - ORDERS

6.01 DECREES AND JUDGMENT ENTRIES IN CONTESTED MATTERS.

A. General Preparation of Decrees/Entries.

After the Court has announced its decision on any matter requiring an entry, order, decision or decree, the Court may order counsel to prepare the appropriate document and forward it to opposing counsel within ten (10) days. Opposing counsel shall sign and return the document within ten (10) days of receipt. The document shall be submitted to the Court within thirty (30) days after the Court announces its decision.

B. Disagreement Concerning Documents Prepared by Counsel.

If opposing counsel objects to the document as to form or because it does not accurately embody the Court's decision, counsel shall indicate objections by

affixing the words “subject to objection” under counsel’s signature and return it to the preparer. Either or both counsel shall then set the matter for a hearing on the entry with the Assignment Commissioner. Unless the matter is resolved prior to hearing, each attorney must present a draft entry to the Judge/Magistrate at such hearing. The Judge/Magistrate shall approve and file one or the other of the submitted entries or shall prepare and file his/her own entry or decision.

C. Failure to Respond to Draft Documents.

If counsel prepares the necessary documents as ordered, but opposing counsel fails to respond with approval or objections, or if counsel fails to timely prepare the necessary document(s) as ordered, a “Notice of Presentation of Entry” may be filed with the Court in substantial compliance with DR Form 1 (included in Appendix 7). Such notice shall include the following:

1. Notice to the opposing counsel that the proposed entry will be presented to the Court for approval after the expiration of fourteen (14) days from the date of mailing unless the other attorney, within the fourteen (14) days, files a written objection stating the grounds with particularity, attaches his/her own proposed entry and sets the matter for hearing.
2. Failure to file written objections and/or set a hearing will be construed as acquiescence to the filing of the proponent’s entry.
3. The proposed entry shall be attached to the notice.

If, after the expiration of the fourteen (14) day period, opposing counsel has not filed a written objection, the counsel who drafted the document shall present both the file-stamped Notice of Presentation of Entry and the actual proposed entry to the assigned Judge/Magistrate for consideration.

Nothing in this rule precludes the Judge/Magistrate from preparing and filing his or her own entry/decision at any time.

6.02 DECREES AND JUDGMENT ENTRIES IN AGREED MATTERS.

When a matter scheduled for hearing is settled by agreement, said agreement shall be read into the record or both parties shall sign an agreed entry at the hearing. If the matter is read into the record, counsel shall present an agreed entry endorsed by both counsel, or parties if not represented, within thirty (30) days of the hearing. If counsel (or a party) cannot agree on the entry, they shall schedule a conference with the Court. If the agreement was recorded, a transcript must be obtained and presented at the conference.

6.03 FAILURE TO TIMELY SUBMIT ENTRIES.

Attorneys who fail to timely submit agreed entries (or entries the Court has ordered counsel to prepare) will be given notice to appear to present entry or face attorney contempt and/or dismissal of the pending matter. Attorney attendance is compulsory unless excused by the Court. THIS HEARING IS NOT FOR THE PURPOSE OF LITIGATING THE MATTER. If the original agreement of the parties that was read into the record is no longer satisfactory to either party, a new motion must be filed with the Court AFTER the original agreement has been properly journalized with the Court.

6.04 COMPLIANCE AND PROCEDURE FOR FILING DECREES, ENTRIES, MAGISTRATE'S DECISIONS, ORDERS.

A. Compliance.

All final decrees/entries/Magistrate's Decisions that include children's issues must be submitted to the Administrative Assistant to the DR Magistrate for compliance review prior to filing. The documents will be reviewed to determine compliance with Local Rules, mandatory statutory language and completion of all required court forms. If the documents are approved by the Office of the Administrative Assistant, they will be filed with the Clerk of Courts. If the documents are not approved, the person responsible for their preparation will be contacted and required to pick up the documents, make necessary changes, and resubmit the documents to the Office of the Administrative Assistant to the DR Magistrate.

B. Other Filings.

All court filings (other than those requiring compliance review) requiring a Judge or Magistrate's signature shall be dropped off at the Clerk of Courts. Court personnel will present the documents to the appropriate Judge or Magistrate for signature. The signed documents will be filed with the Clerk of Courts unless other instructions are given.

C. Notifications.

All decrees, entries and decisions that address child support and/or health insurance shall adopt the Notifications (see Appendix 4) and they shall be attached thereto.

6.05 AGREED MODIFICATION OF PARENTAL RIGHTS AND RESPONSIBILITIES.

Parties who agree to modification of parental rights and responsibilities shall submit an agreed entry with the appropriate attachments to the Office of the Administrative Assistant to the DR Magistrate for compliance review. Motions must comply with Local Rule 1.01 (B) and Local Rule 3.04.

6.06 WAIVER OF SUPPORT ARREARAGES.

An obligee seeking to waive support arrearages must file a written request, schedule a hearing and appear in person before the Court. The Court may waive appearance for good cause shown. If both parties are represented by counsel, an agreed entry may be filed in lieu of a hearing. Any waiver of arrearages has no effect on money that may be owed to any governmental agency.

6.07 PERSONAL PROPERTY.

If personal property has been divided and exchanged before the divorce decree is filed, the decree shall include the following language: “All personal property has been divided and exchanged.”

If personal property has not been divided and exchanged before the divorce decree is filed, the decree shall include the following language: “The parties shall exchange and divide all personal property no later than 30 days after the filing date of the final decree. If the parties cannot agree upon a date to conduct this division and exchange, the date for the division and exchange of personal property shall be at 12:00 noon on the 30th day following the filing of the decree. If either party fails to abide by the terms of the final decree regarding the division and exchange of personal property, the Court shall entertain a motion for contempt or a motion to compel the division or exchange of personal property. The Court will only entertain these motions if filed by a party on or before the 30th day after the expiration of the 30-day period.”

6.08 LEGAL DESCRIPTION FOR REAL ESTATE.

Any entry or decree that affects the title to any real property must have a copy of the most recent deed to said property attached or the legal description typed into the entry or decree. The attached deed and/or the typed legal description must indicate that the legal description has been approved for filing by the Tax Map Office and must include the prior deed reference.

6.09 ORDER FOR RESTORATION OF FORMER NAME.

A party requesting restoration of a former name shall have said name included in the final decree or must submit a separate proposed entry setting forth the party’s

complete name before and after the requested change, as well as the party's date of birth and current address. Any such entry may be approved by the Court up to sixty (60) days subsequent to the filing of a final decree.

6.10 QUALIFIED DOMESTIC RELATIONS COURT ORDERS (QDRO).

A. Preparation.

1. **Unless otherwise agreed**, counsel for the alternate payee entitled to a portion of the other spouse's pension or retirement plan shall prepare the QDRO for submission to the Court. The pension participant shall sign any releases necessary to facilitate drafting of the QDRO.
2. Whenever the parties agree to divide a pension or retirement program by a QDRO, they and their counsel shall sign and approve the original of a QDRO submitted to the Court, and shall sign and approve any subsequent QDRO submitted to the Court, unless waived by the Court.
3. The QDRO shall be prepared and submitted to the Court with the final decree, or as soon as possible thereafter.

B. Assumptions.

1. **Unless otherwise agreed**, a QDRO for a defined benefit plan shall contain the following provisions or shall be governed by the following assumptions:
 - a. The QDRO will be a separate interest QDRO, meaning the alternate payee's benefits shall be independent of those of the participant.
 - b. The division of benefits shall be based on the language of the case of **Hoyt v. Hoyt** (1999), 53 Ohio St.3d 177 and its progeny.
 - c. The benefits assigned to the alternate payee shall include any and all temporary and supplemental benefits. Further, the benefits assigned to the alternate payee shall include all early retirement subsidies and, should the alternate payee commence receipt of benefits prior to participant's retirement, the alternate payee's benefits will be recalculated to reflect the subsidy.
 - d. The alternate payee will be deemed to be the surviving spouse of the participant to the extent of benefits assigned for the purpose of a pre-retirement survivor annuity.

- e. The division of the benefits will be the date of the final hearing of the case (**unless otherwise agreed**).
2. **Unless otherwise agreed**, a QDRO for a defined contributions plan shall contain the following provisions or be governed by these assumptions:
- a. The division of benefits will be the date of the final hearing of the case.
 - b. The alternate payee's share of the benefits shall be credited with investment earnings and/or losses from the date of division until distribution.
 - c. The QDRO will allow an immediate lump sum distribution of the alternate payee's benefits.
 - d. Any loans from the plan taken during the marriage shall be allocated equally between the parties (**unless otherwise agreed**).
 - e. The alternate payee's share of the benefits will reflect credit for sums deposited into the plan after the date of division which are based on service for periods prior to the date of division.

C. Mandatory Language.

In all cases in which a QDRO is to be issued, the final judgment entry shall contain the following language:

1. "The Court retains jurisdiction with respect to the Qualified Domestic Relations Order to the extent required to maintain its qualified status and the original intent of the parties. The Court also retains jurisdiction to enter further orders as are necessary to enforce the assignment of benefits to the non-participant as set forth herein, including the recharacterization thereof as a division of benefits under another plan, as applicable, or to make an award of spousal support, if applicable, in the event that the participant fails to comply with the provisions of this order."
2. "The participant shall not take actions, affirmative or otherwise, that can circumvent the terms and provisions of the Qualified Domestic Relations Order, or that may diminish or extinguish the rights and entitlements of the participant.

6.11 DIVISION OF PENSION ORDERS (DOPO).

The division of retirement benefits for members of the Ohio Public Employees Retirement System (OPERS), State Teachers Retirement System (STRS), School Employees Retirement System (SERS), Ohio Police and Fire Pension Fund (OP&F), and Ohio Highway Patrol Retirement System (HPRS) shall conform with the requirements of each agency's respective administrative rules.

The terms of Local Rule 6.10 (Qualified Domestic Relations Court Orders-QDROs) apply to DOPOs to the extent such terms are not in conflict with the statutory requirements of DOPOs.

Specific retirement information may be found for the respective agencies on the internet at: www.opers.org; www.strsoh.org; www.ohsers.org; www.op-f.org; and www.ohprs.org.

PART SEVEN CIVIL PROTECTION ORDERS DOMESTIC VIOLENCE – CIVIL STALKING AND SEXUALLY ORIENTED OFFENSES

7.01 PROCEDURE FOR OBTAINING CIVIL PROTECTION ORDER.

- A. An action for a civil protection order may be commenced by filing a Petition with the Clerk of Courts of the Common Pleas Court. All filings **MUST** be on the forms provided by the Ohio Supreme Court. Petitioners can obtain a packet for filing for a Civil Protection Order as follows: (1) From the Clerk of Courts; (2) From the Alternatives to Violence Center; or (3) From the Ohio Supreme Court website (www.supremecourtofohio.gov).
- B. Pro se litigants (parties representing themselves without attorneys) should familiarize themselves with the Local Rules of this Court, local procedures of this Court, as well as the Ohio Rules of Civil Procedure and Ohio Rules of Evidence.
- C. Petitions **MUST** be filed with the Clerk of Courts between the hours of 8:30 a.m. and 3:30 p.m. Any Petition filed after 2:00 p.m. shall not be heard until the next day. Any Petition for a Domestic Violence Civil Protection Order filed on a Friday **MUST** be filed with the Clerk of Courts by noon and will be heard that day.
- D. If Petitioner is requesting an ex parte hearing, he/she **MUST** be available on the day of filing of the Petition between the hours of 9:00 a.m. until 4:00 p.m. The Petitions will be heard as the Court is able to schedule the hearing on its docket.

1. For Domestic Violence Civil Protection Orders under O.R.C. 3113.31: If the Petition is not heard by 4:00 p.m., it will be heard no later than 24 hours after it is filed with the Clerk of Courts.
2. For Civil Stalking or Sexually Oriented Offense Protection Orders under O.R.C. 2903.214: Petitions will be heard as soon as the Court docket permits, but no later than 4:00 p.m. the next day Court is in session.

7.02 MOTIONS TO MODIFY OR TERMINATE CIVIL PROTECTION ORDERS.

A. Domestic Violence Civil Protection Orders under O.R.C. 3113.31.

Ohio Supreme Court Form 10.01-K must be filed to modify or terminate a protection order. The forms may be obtained from the Clerk of Courts, Alternatives to Violence Agency or the Ohio Supreme Court website referenced above.

The motion must comply with Ohio Rules of Civil Procedure. A hearing must be held on the Motion. Any party seeking to dismiss a Civil Protection Order must personally appear before the Court and state on the record the reason for seeking the dismissal. This process ensures that the Petitioner understands the effect of the dismissal. Moreover, the Court will notify all necessary agencies of the dismissal. If the moving party fails to appear for the hearing, the request for dismissal will be denied and the Civil Protection Order will remain in full force and effect as originally ordered.

B. Civil Stalking or Sexually Oriented Offense Orders under O.R.C. 2903.214.

Forms to modify or terminate a protection order under this Section may be obtained from the Clerk of Courts or the Alternatives to Violence Agency. Modification or dismissal will only be granted if there is a showing that the original circumstances have materially changed and it is no longer equitable for the Civil Protection Order to continue.

The motion must comply with Ohio Rules of Civil Procedure. A hearing must be held on the Motion. Any party seeking to dismiss a Civil Protection Order must personally appear before the Court and state on the record the reason for seeking the dismissal. This process ensures that the Petitioner understands the effect of the dismissal. Moreover, the Court will notify all necessary agencies of the dismissal. If the moving party fails to appear for the hearing, the request for dismissal will be denied and the Civil Protection Order will remain in full force and effect as originally ordered.

C. Renewal of a Civil Protection Order.

A Civil Protection Order or Consent Agreement must be renewed in the same manner as the original order or agreement was issued or approved. This requires the filing of a new petition.

D. Consent Agreements.

Consent Agreements between the parties shall be permitted pursuant to statute and the Rules of Civil Procedure.

E. Continuances.

Continuances of any hearing concerning Civil Protection Orders may be granted in the Court's discretion for the following reasons:

1. Respondent has not been served prior to hearing.
2. Parties consent to continuance.
3. Continuance is needed to allow party to obtain counsel.
4. Continuance is needed for other good cause shown.

PART EIGHT

SPECIAL ACCOMODATIONS

8.01 DISABLED PERSONS.

Any person who requires special accommodations because of a handicap or disability shall notify the Court of his or her special requirements at least ten (10) days before a scheduled court appearance. The Court shall comply with all reasonable requests for assistance, including providing interpreters without additional cost, except as described in Local Rule 8.02.

8.02 INTERPRETIVE SERVICES.

When interpretive services are needed, the attorney or party requesting an interpreter shall make a request to the Office of the Administrative Assistant for the DR Magistrate at least ten (10) days before the scheduled hearing. The Court will arrange for an objective interpreter to be present for the hearing. The requesting party's failure to appear at the hearing may result in that party being held responsible for payment of the interpreter's fee.

APPENDIX A

A Lawyer's Creed

Letter from Court to Pro Se Litigants

APPENDIX 1

Documents Required for Filings

APPENDIX 2

Fax Cover Sheet for Fax Filings

APPENDIX 3

Civil Rule 75(N) Motion for Temporary Orders

Civil Rule 75(N) Temporary Order

(Court Suggested Forms)

APPENDIX 4

Child Support Notifications

(Mandatory Attachment for all Orders with Child Support)

APPENDIX 5

Court's Standard Parenting Schedule

APPENDIX 6

Mutual Restraining Order

First Pretrial Hearing Notice and Mandatory Discovery Notice

**THESE FORMS SHALL BE ISSUED BY THE COURT
(Parties Should Not Prepare and File)**

APPENDIX 7

DR Form 1 – Notice of Presentation of Entry

Form 1.0 – Affidavit of Property

Form 1.1 – Affidavit of Income and Expenses

Form 2.0 – Parenting Proceeding Affidavit

Form 2.1 – Health Insurance Affidavit

Form 3.0 – Child Support Computation Worksheet

APPENDIX 8

Mandatory Discovery